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Financing of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

Financing of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

Financing of the International Residual Mechanism for Criminal Tribunals

First performance reports on the budgets of the International Criminal Tribunal for Rwanda, the International Tribunal for the Former Yugoslavia and the International Residual Mechanism for Criminal Tribunals for the biennium 2012-2013

Report of the Advisory Committee on Administrative and Budgetary Questions

I. Introduction

1. The Advisory Committee on Administrative and Budgetary Questions has considered the following reports of the Secretary-General:

(a) First performance report on the budget of the International Criminal Tribunal for Rwanda for the biennium 2012-2013 (A/67/594);

(b) First performance report on the budget of the International Tribunal for the Former Yugoslavia for the biennium 2012-2013 (A/67/595);

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(c) First performance report on the budget of the International Residual Mechanism for Criminal Tribunals for the biennium 2012-2013 (A/67/596).

The Advisory Committee has also considered the reports of the Board of Auditors on the financial reports and audited financial statements for the biennium ended 31 December 2011 for the International Criminal Tribunal for Rwanda (A/67/5/Add.11) and the International Tribunal for the Former Yugoslavia (A/67/5/Add.12). During its consideration of the reports, the Advisory Committee met with representatives of the Secretary-General and members of the Audit Operations Committee of the Board of Auditors, who provided additional information and clarification.

II. Reports of the Board of Auditors

2. The main recommendations of the Board of Auditors on the accounts of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia for the biennium ended 31 December 2011 are set out in documents A/67/5/Add.11 and A/67/5/Add.12, respectively. The Advisory Committee notes that the Board issued unmodified audit opinions on the financial statements of both Tribunals, but made recommendations for improvements in a number of areas. The Board's recommendations concerning the International Criminal Tribunal for Rwanda relate, inter alia, to the budget formulation and expenditure management system, travel management procedures and archives management. With regard to the International Tribunal for the Former Yugoslavia, the Board's recommendations cover, among other issues, planning for the closure of the Tribunal and the transition to the International Residual Mechanism and the management of non-expendable property.

3. In its reports, the Board of Auditors also recommended that both Tribunals expedite their preparations for the implementation of the International Public Sector Accounting Standards (IPSAS). The Advisory Committee has commented in more detail on this issue in its report on the financial reports and audited financial statements and reports of the Board of Auditors for the period ended 31 December 2011 (A/67/381, para. 30).

III. Performance reports for the biennium 2012-2013

4. In all three performance reports, the Secretary-General recalls that, in the context of the regular budget, the General Assembly, in paragraph 27 of its resolution 66/246, decided to defer consideration of post-related recosting for inflation and exchange rate projections to the first performance report on the budget for the biennium 2012-2013, in order to ensure appropriation of post-related costs in line with actual expenditure experience (A/67/594, summary; A/67/595, summary; and A/67/596, summary).

5. The Secretary-General asserts that consideration of post-related recosting for the International Criminal Tribunal for Rwanda, the International Tribunal for the Former Yugoslavia and the International Residual Mechanism was similarly deferred pursuant to General Assembly resolutions 66/238, 66/239 and 66/240 A, respectively, as detailed in the annexes thereto. Accordingly, as indicated by the

Secretary-General, post-related requirements for inflation and exchange rates in the initial appropriation for the biennium 2012-2013 for the Tribunals and the International Residual Mechanism are at the same level as those in the revised appropriation for the biennium 2010-2011. For non-post-related requirements, however, the adjustments are based on actual expenditure experience during the current year and updated projections for the remainder of the biennium (A/67/594, paras. 7-8; A/67/595, paras. 7-8; and A/67/596, paras. 7-8).

6. Upon enquiry as to the legislative basis for the decision to defer consideration of post-related recosting for inflation and exchange rate projections for the Tribunals and the International Residual Mechanism to the first performance reports, the Advisory Committee was informed that it was the understanding of the Secretariat that any decisions made regarding the deferral of consideration of post-related recosting for the regular budget were to apply also to the Tribunals and the International Residual Mechanism, whose budgets were also fully recosted. Hence, the recommendations of the Fifth Committee set out in the annexes to General Assembly resolutions 66/238, 66/239 and 66/240 A included reductions to the estimated appropriations for the Tribunals and the International Residual Mechanism for the biennium 2012-2013, deriving from the decision to defer consideration of post-related recosting for inflation and exchange rates. The deferred amounts of $10,154,000 gross for the International Criminal Tribunal for Rwanda, $6,557,900 gross for the International Tribunal for the Former Yugoslavia and $1,501,600 gross for the International Residual Mechanism pertained to the total impact of the first two post-related recostings performed during the biennium and were based on the rates and projections set out in the Secretary-General's report on revised estimates for the Tribunals and the International Residual Mechanism: effects of changes in rates of exchange and inflation (A/66/605).

7. **The Advisory Committee recalls that the decision to defer consideration of post-related recosting for inflation and exchange rates set out in paragraph 27 of General Assembly resolution 66/246 applies only to the regular budget. Since the Tribunals and the International Residual Mechanism are not funded from the regular budget, and in the absence of an explicit mandate from the Assembly, the Committee questions the assumption made by the Secretariat that the decision to defer consideration of post-related recosting for inflation and exchange rates for the regular budget should apply to the budgets of the Tribunals and the International Residual Mechanism. The Assembly may wish to clarify its position on this matter at the time of its consideration of the Secretary-General's reports.**

8. On the basis of established budgetary methodology, procedures and practices (that is, taking into account post-related actual expenditure experience in 2012 and updated projected rates for the remainder of the biennium), the Secretary-General indicates in his first performance report on the budget of the International Criminal Tribunal for Rwanda for the biennium 2012-2013 that the revised estimates reflect a net increase of $15,699,500, or 9.8 per cent, over the initial appropriation. The overall increase is attributable to increases owing to changes in inflation assumptions ($19,132,900 gross, or $17,933,800 net) and adjustments to the budgeted vacancy rates ($1,868,400 gross, or $1,698,500 net), partially offset by decreases owing to changes in exchange rates ($3,923,900 gross, or $3,442,700 net) and adjustments to standard costs ($421,200 gross, or $490,100 net) (A/67/594, table 2).

9. In table 4 of the same report, the Secretary-General includes information on the revised estimates based on post-related actual expenditure experience against the initial appropriation, with the deferral of post-related recosting for updated projected rates. On that basis, the revised estimates reflect a net increase of $9,972,200, or 6.3 per cent, over the initial appropriation.

10. On the basis of established budgetary methodology, procedures and practices (that is, taking into account post-related actual expenditure experience in 2012 and updated projected rates for the remainder of the biennium), the Secretary-General indicates in his first performance report on the budget of the International Tribunal for the Former Yugoslavia for the biennium 2012-2013 that the revised estimates reflect a net increase of $7,288,800, or 2.9 per cent, over the initial appropriation. The overall increase is attributable to increases owing to changes in inflation assumptions ($7,019,000 gross, or $5,922,600 net), adjustments to standard costs ($5,953,100 gross, or $5,426,600 net) and adjustments to the budgeted vacancy rates ($5,138,000 gross, or $4,173,900 net), partially offset by a decrease owing to changes in exchange rates ($9,013,000 gross, or $8,234,300 net) (A/67/595, table 2).

11. In table 4 of the same report, the Secretary-General includes information on the revised estimates based on post-related actual expenditure experience against the initial appropriation, with the deferral of post-related recosting for updated projected rates. On that basis, the revised estimates reflect a net increase of $1,222,100, or 0.5 per cent, over the initial appropriation.

12. In the annex to the above-mentioned report, the Secretary-General sets out the budgetary assumptions used as the basis for the initial appropriation for the biennium 2012-2013 and the adjustments proposed in the first performance report. The Advisory Committee notes, in particular, that vacancy rates for continuing posts in the General Service and related categories have been revised downwards from 7.9 to 0.2 per cent. This adjustment has led to the above-mentioned increase of $4,173,900 net in the revised estimates. Upon enquiry, the Committee was informed that budgeted vacancy rates were based on experience and that, depending on staff turnover and the timeliness of recruitment actions, actual vacancy rates may be higher or lower than budgeted. Staffing levels for both Tribunals were determined on the basis of the trial schedules: recruitment was not delayed in order to achieve budgetary savings.

13. On the basis of established budgetary methodology, procedures and practices (that is, taking into account post-related actual expenditure experience in 2012 and updated projected rates for the remainder of the biennium), the Secretary-General indicates in his first performance report on the budget of the International Residual Mechanism for Criminal Tribunals for the biennium 2012-2013 that the revised estimates reflect a net increase of $4,583,600, or 9.7 per cent, over the initial appropriation. The overall increase is attributable to increases owing to changes in exchange rates ($984,300 gross, or $1,122,800 net), changes in inflation assumptions ($3,860,900 gross, or $3,342,000 net), adjustments to standard costs ($18,900 gross, or $7,500 net) and adjustments to the budgeted vacancy rates ($120,900 gross, or $111,300 net) (A/67/596, table 2).

14. In table 4 of the same report, the Secretary-General includes information on the revised estimates based on post-related actual expenditure experience against the initial appropriation, with the deferral of post-related recosting for updated

projected rates. On that basis, the revised estimates reflect a net increase of $3,760,500, or 7.9 per cent, over the initial appropriation.

15. During its consideration of the first performance report on the budget of the International Residual Mechanism for the biennium 2012-2013, the Advisory Committee enquired as to current staff incumbency rates. The Committee was informed that, as at 12 November 2012, 26 of the total number of 57 budgeted posts were encumbered, and 4 posts were vacant. The remaining 27 posts were under recruitment. **With a view to ensuring that the transfer of substantive functions to the International Residual Mechanism can proceed as planned and in accordance with the trigger dates set out in Security Council resolution 1966 (2010), the Committee recommends that the General Assembly urge the Secretary-General to ensure that the recruitment process for the aforementioned 27 posts is completed as quickly as possible.**

16. On a related matter, the Advisory Committee recalls that, in the context of its consideration of the proposed budgets for the Tribunals for 2012-2013, it commented on the issue of positions funded under general temporary assistance, which have been used by both Tribunals to continue the functions of posts that are to be gradually abolished over the course of the biennium, as part of the downsizing process, in order to ensure that the Tribunals have the flexibility to accelerate or decelerate the phasing out of those posts. At that time, the Committee was informed that, at the beginning of the biennium 2012-2013, the International Criminal Tribunal for Rwanda would have 254 positions funded under general temporary assistance that were intended to continue the functions of posts to be abolished, and the International Tribunal for the Former Yugoslavia would have 319 such positions. Both Tribunals intended to gradually reduce the number of those positions during the biennium (see A/66/600, paras. 28, 40, 41 and 53-57). During its consideration of the Secretary-General's current reports, the Committee was provided, upon request, with charts showing the phasing out of positions funded under general temporary assistance over the biennium 2012-2013 at both Tribunals (see annex). The Committee notes that the phasing-out strategy for the aforementioned positions was endorsed by the General Assembly in its resolutions 66/238 and 66/239.

17. In its report on the proposed budget of the International Tribunal for the Former Yugoslavia for the biennium 2012-2013, the Advisory Committee expressed the view that greater efforts should be made to streamline the Tribunal's staffing structure and recommended that the Secretary-General explore options for accelerating the abolition of positions funded under general temporary assistance (A/66/600, para. 57). **Having studied the charts referred to in paragraph 16 above, the Advisory Committee considers that both Tribunals could phase out larger numbers of positions funded under general temporary assistance each month and thus accelerate their completion strategies.**

18. During its consideration of the Secretary-General's first performance reports on the Tribunals and the International Residual Mechanism, the Advisory Committee enquired as to procurement practices and policies. In response, the Committee was informed that procurement at all three bodies was done in full compliance with the Financial Regulations and Rules of the United Nations (ST/SGB/2003/7 and Amend.1) and the Procurement Manual. Contracts were awarded through competitive bidding, unless one of the exceptions mentioned in rule 105.16 (a) of the Financial Regulations and Rules applied. Both Tribunals had

local committees on contracts, which reviewed all contracts with a value in excess of $75,000. Contracts with values exceeding $200,000 were referred to the Procurement Division, and those with values exceeding $500,000 were referred to the Headquarters Committee on Contracts after review by the Procurement Division. At present, the Tribunals were handling all procurement for the International Residual Mechanism. The Advisory Committee was further informed, upon enquiry, that in 2012 there had been no cases of ex post facto approval of procurement contracts at the International Criminal Tribunal for Rwanda or at the International Residual Mechanism. There had been three cases at the International Tribunal for the Former Yugoslavia. **The Advisory Committee recommends that the General Assembly request the Secretary-General to provide, as part of his second performance reports on the budgets of the Tribunals and the International Residual Mechanism for the biennium 2012-2013, detailed information on all ex post facto cases approved during the biennium.**

IV. Conclusion

19. The action requested of the General Assembly is set out in paragraphs 19 and 20 of the first performance report on the budget of the International Criminal Tribunal for Rwanda for the biennium 2012-2013, paragraphs 19 and 20 of the first performance report on the budget of the International Tribunal for the Former Yugoslavia for the biennium 2012-2013, and paragraphs 19 and 20 of the first performance report on the budget of the International Residual Mechanism for Criminal Tribunals for the biennium 2012-2013. The Advisory Committee notes that, on the basis of established budgetary methodology, procedures and practices, the revised estimates for the International Criminal Tribunal for Rwanda, the International Tribunal for the Former Yugoslavia and the International Residual Mechanism would amount to $188,279,300 gross, $290,133,200 gross and $54,756,700 gross, respectively. The Committee also notes that the revised estimates based only on the post-related actual expenditure experience for 2012 amount to $182,163,600 gross, $283,067,700 gross and $53,676,500 gross, respectively.

20. **As indicated in paragraph 17 above, the Advisory Committee considers that there is scope for accelerating the completion strategies of the Tribunals. Accordingly, and with the expectation that the Tribunals and the International Residual Mechanism will pursue further efficiencies, including through the reprioritization of their activities, during the remainder of the biennium, the Committee recommends that the General Assembly maintain the level of the initial appropriation for the biennium 2012-2013 for all three entities.**

Annex

Phasing out of positions funded under general temporary assistance for the biennium 2012-2013 at the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia

International Criminal Tribunal for Rwanda

Grade	*Jan-12*	*Feb-12*	*Mar-12*	*Apr-12*	*May-12*	*Jun-12*	*Jul-12*	*Aug-12*	*Sep-12*	*Oct-12*	*Nov-12*	*Dec-12*
D-1	1	1	1	1	1	1	1	1	1	1	1	1
P-5	2	2	2	2	2	2	2	2	2	2	2	2
P-4	11	11	11	11	11	11	8	8	8	8	8	8
P-3	19	19	19	19	19	19	12	12	12	12	12	12
P-2	8	8	8	8	8	8	5	5	5	5	5	5
Total P	**41**	**41**	**41**	**41**	**41**	**41**	**28**	**28**	**28**	**28**	**28**	**28**
LL	119	119	119	119	119	119	89	89	89	84	84	73
FS	94	94	94	94	94	94	67	67	67	67	67	67
Overall	**254**	**254**	**254**	**254**	**254**	**254**	**184**	**184**	**184**	**179**	**179**	**168**

International Criminal Tribunal for Rwanda

Grade	*Jan-13*	*Feb-13*	*Mar-13*	*Apr-13*	*May-13*	*Jun-13*	*Jul-13*	*Aug-13*	*Sep-13*	*Oct-13*	*Nov-13*	*Dec-13*
P-3	2	2	2	2	2	2	2	2	2	2	2	2
P-2	2	2	2	2	2	2	2	2	2	2	2	2
Total P	**4**	**4**	**4**	**4**	**4**	**4**	**4**	**4**	**4**	**4**	**4**	**4**
LL	83	83	83	83	83	83	81	81	81	81	81	70
FS	45	45	45	45	45	45	40	40	40	40	40	40
Overall	**132**	**132**	**132**	**132**	**132**	**132**	**125**	**125**	**125**	**125**	**125**	**114**

International Tribunal for the Former Yugoslavia

Grade	*Jan-12*	*Feb-12*	*Mar-12*	*Apr-12*	*May-12*	*Jun-12*	*Jul-12*	*Aug-12*	*Sep-12*	*Oct-12*	*Nov-12*	*Dec-12*
P-5	11	11	11	11	11	11	11	10	10	8	7	7
P-4	32	32	32	30	30	30	29	25	25	17	14	14
P-3	76	76	76	74	74	74	74	68	68	58	50	50
P-2	41	41	41	40	40	40	40	37	37	31	26	25
Total P	**160**	**160**	**160**	**155**	**155**	**155**	**154**	**140**	**140**	**114**	**97**	**96**

International Tribunal for the Former Yugoslavia												
Grade	*Jan-12*	*Feb-12*	*Mar-12*	*Apr-12*	*May-12*	*Jun-12*	*Jul-12*	*Aug-12*	*Sep-12*	*Oct-12*	*Nov-12*	*Dec-12*
GS/OL	125	125	125	125	125	125	124	118	118	99	75	75
SS	34	34	34	34	34	34	33	33	33	21	21	21
Overall	**319**	**319**	**319**	**314**	**314**	**314**	**311**	**291**	**291**	**234**	**193**	**192**

International Tribunal for the Former Yugoslavia												
Grade	*Jan-13*	*Feb-13*	*Mar-13*	*Apr-13*	*May-13*	*Jun-13*	*Jul-13*	*Aug-13*	*Sep-13*	*Oct-13*	*Nov-13*	*Dec-13*
P-5	7	7	7	7	7	7	7	7	7	7	6	6
P-4	14	14	14	14	14	14	13	13	13	13	13	13
P-3	49	39	39	39	39	39	31	31	31	31	29	29
P-2	24	21	21	21	21	21	21	21	21	21	21	21
Total P	**94**	**81**	**81**	**81**	**81**	**81**	**72**	**72**	**72**	**72**	**69**	**69**
GS/OL	73	73	73	73	73	73	66	66	66	66	66	66
SS	21	21	21	21	21	21	21	21	21	21	21	21
Overall	**188**	**175**	**175**	**175**	**175**	**175**	**159**	**159**	**159**	**159**	**156**	**156**

Abbreviations: LL, Local level; FS, Field Service; GS, General Service; OL, Other level; SS, Security Service.